

**MINUTES OF THE REGULAR MEETING  
ZONING BOARD OF APPEALS  
TOWN OF NEW HARTFORD MUNICIPAL BUILDING  
JUNE 19, 2023**

The Regular Meeting was called to order by Chairman Randy Bogar at 6:00 P.M. Board Members present Byron Elias, Tim Tallman, Karen Stanislaus, Michele Mandia, Lenora Murad, and Daniel McNamara. Also in attendance were Town Attorney Herbert Cully, Councilman David Reynolds, and Secretary Dory Shaw. Everyone in attendance recited the Pledge of Allegiance. Chairman Bogar introduced the Board Members and explained the procedures for tonight's meeting.

Chairman Bogar introduced new Board Member Timothy Tallman. He also thanked former Board Member Fred Kiehm for the many years of devoted service to the Zoning Board of Appeals and to the New Hartford community.

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The application of **Mr. Dominick Crocilla for property located at 2 Clinton Road, New Hartford, New York**. This property at the corner of Seneca Turnpike and Clinton Road has been merged to develop the required off street parking. However, to meet the needed number and size of parking spots, one space encroaches into the 15 feet of public right of way. The proposed parking is 11.2± feet off the property line. The applicant will require a 3.8± foot Area Variance for this parking space. Tax Map #328.016-3-35 (33 & 34); Zoning: C2 Commercial Retail Business. Attorney Joseph Hobika appeared before the Board.

Town Attorney Cully addressed the Board stating that this application is for the limited purpose for parking spaces only. The comments received from NYSDOT are for the site plan review/Planning Board.

Attorney Hobika stated the parking spaces can't be closer than 15' of the right-of-way. None of them are in the right of way. This property has been vacant for about twenty-five years. This is a 3.8± variance. They are not intending on having any parking spaces in the right-of-way.

Chairman Bogar reiterated that this will be in front of the Planning Board for Site Plan Review. Chairman Bogar opened the Public Hearing and asked if there was anyone in attendance for this application - no response. The Public Hearing ended at approximately 6:10 P.M. County Planning 239 was received with no adverse comments, and NYSDOT's comments have been made a part of the file.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, it benefits the area - all in agreement;

- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Karen Stanislaus to approve the application as presented and that the concerns of NYSDOT be addressed at Site Plan Review with the Planning Board; and if applicable for parking, that a Building Permit be obtained within one year of approval date; seconded by Board Member Tim Tallman. Vote taken.

Chairman Randy Bogar – yes  
Board Member Tim Tallman – yes  
Board Member Dan McNamara – yes  
Board Member Karen Stanislaus - yes

Board Member Byron Elias – yes  
Board Member Michele Mandia – yes  
Board Member Lenora Murad – yes

Motion was **passed** by a vote of 7 - 0.

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The application of **Mr. Donald Humphreys, 8639 Tibbitts Road, New Hartford, New York**. Mr. Humphreys is proposing a two-lot minor subdivision. The proposed subdivision will end up going between two existing agricultural buildings. The applicant is seeking an Area Variance for two proposed parcels of 19.39± feet into the side yard setback. Tax Map #338.000-3-22.3; Zoning: Agricultural. Mr. Donald Humphreys appeared before the Board.

Mr. Humphreys stated that he is trying to rearrange the property to have his home setting on its own lot instead of the Humphreys Farm. He referred to a large map of this property for the Board's review. If approved for his variance, it will go to the Planning Board for subdivision approval.

Town Attorney Cully stated they are dividing property into two lots. The property line between the two is going to create a non-conforming situation because of the 15' setback. He cannot go to the Planning Board until he gets the variance approved.

Chairman Bogar asked if there was anyone present to address this application - no response. Oneida County Planning 239 and Oneida County DPW had no adverse comments. The Public Hearing closed at approximately 6:20 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, all in agreement;

- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Byron Elias to approve the application as presented and that this subdivision be presented to the Planning Board for approval; seconded by Board Member Michele Mandia. Vote taken.

Chairman Randy Bogar – yes  
Board Member Tim Tallman – yes  
Board Member Dan McNamara – yes  
Board Member Karen Stanislaus - yes

Board Member Byron Elias – yes  
Board Member Michele Mandia – yes  
Board Member Lenora Murad – yes

Motion **passed** by a vote of 7 - 0.

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The application of **Mr. Louis Mendez, 201 Winchester Drive, New Hartford, New York**. The property has a hedge line that runs parallel to Read Street with a small opening to the back of the property. Mr. Mendez is seeking an Area Variance for a 54± inch tall aluminum fence into the front yard area setback. The proposed fence will be behind the existing hedges. Tax Map #317.015-2-9; Zoning: Low Density Residential. Mr. Mendez has a representative to appear before the Board on his behalf, Ms. Sandra Mendez.

She explained that they would like to close a gap with this fencing. They spoke to the neighbors and they are not opposed. The aluminum fence will be 54” high.

The Board Members wanted to see a picture of the proposed fencing. It is a black powdered coated fence, but Ms. Mendez does not have a picture. It was brought up on the phone what the proposed fence would look like.

Chairman Bogar opened the Public Hearing and asked if there was anyone in attendance - no response. However, two letters were received:

- Mr. Wester Miga, 208 Winchester Drive - no objection
- Ken and Marie Bord, 116 Washington Drive - no objection

These have been made a part of the file. The Public Hearing closed at approximately 6:25 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: no, all in agreement.

Motion was made by Board Member Dan McNamara to approve the application as presented in that they wanted to keep the pets inside the yard (and that they follow the diagram as submitted); and that a Building Permit be obtained within one year of approval date; seconded by Board Member Byron Elias. Vote taken.

Chairman Randy Bogar – yes  
Board Member Tim Tallman – yes  
Board Member Dan McNamara – yes  
Board Member Karen Stanislaus - yes

Board Member Byron Elias – yes  
Board Member Michele Mandia – yes  
Board Member Lenora Murad – yes

Motion was **passed** by a vote of 7 - 0.

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The application of **Mr. James Barclay, 4461 Middle Settlement Road, New Hartford, New York**. He is requesting to have an above ground pool on his property which will be a third accessory structure. There shall not be more than two accessory buildings or structures on a residential lot. Therefore, the applicant is seeking an Area Variance to allow a third accessory structure. Tax Map #328.000-2-45; Zoning: I Institutional. Mr. Barclay appeared before the Board.

Mr. Barclay explained that there was a pool at the same location previously but he didn't know when it was taken down. He bought the property and added a garage and storage shed. The new pool will go in the exact spot where it was before. It will have a deck and 4' railings.

Chairman Bogar opened the Public Hearing and asked if there was anyone in attendance - no response. County Planning 239 and NYSDOT had no adverse comments. However, two letters were received and made a part of the file:

- Mr. Wester Miga, 208 Winchester Drive - no objection
- Ms. Kathy Littrel, Middle Settlement Road - no objection

The Public Hearing closed at approximately 6:35 P.M.

At this time, the Board Members reviewed the criteria for an Area Variance:

- An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the variance – response: no, all in agreement;
- The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance – response: no, all in agreement;
- The requested variance is substantial – response: no, all in agreement;
- The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district – response: no, all in agreement;
- The alleged difficulty was self-created, which consideration shall be relevant to the decision, but shall not necessarily preclude granting the variance – response: yes, all in agreement.

Motion was made by Board Member Michele Mandia to approve the application as presented and that a Building Permit be obtained within one year of approval date; seconded by Board Member Dan McNamara. Vote taken.

Chairman Randy Bogar – yes  
Board Member Tim Tallman – yes  
Board Member Dan McNamara – yes  
Board Member Karen Stanislaus - yes

Board Member Byron Elias – yes  
Board Member Michele Mandia – yes  
Board Member Lenora Murad – yes

Motion was **passed** by a vote of 7 - 0.

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Chairman Bogar addressed the Board Members and explained that they would need to complete a class on Sexual Harassment - more information to follow.

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Motion made by Board Member Byron Elias to approve the draft minutes of the May 22, 2023 Zoning Board meeting; seconded by Chairman Randy Bogar. Board Members Tim Tallman and Michele Mandia abstained - all others approved.

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There being no further business, the meeting adjourned at approximately 6:45 P.M.

Respectfully submitted,

Dolores Shaw, Secretary  
Zoning Board of Appeals

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